

— EXHIBIT 4 —

Christina Melito, et. al. vs. American Eagle Outfitters
Deposition of Brooke Bowes

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

CHRISTINA MELITO, CHRISTOPHER)
LEGG, ALISON PIERCE, and)
WALTER WOOD, Individually)
and on behalf of all others)
similarly situated,)
)
Plaintiff(s),)
)
vs.) NO. 1:14-cv-02440-VEC
)
AMERICAN EAGLE OUTFITTERS,)
INC., a Delaware corporation,)
AEO MANAGEMENT CO., a Delaware)
corporation, and EXPERIAN)
MARKETING SOLUTIONS, INC.,)
)
Defendant(s),)

* * * * *

DEPOSITION OF BROOKE BOWES

TAKEN ON BEHALF OF THE PLAINTIFFS/PUTATIVE CLASSES

IN OKLAHOMA CITY, OKLAHOMA

ON JUNE 14, 2017

* * * * *

REPORTED BY: JILL A. RESETAR, CSR

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1 S T I P U L A T I O N S

2

3 It is hereby stipulated that the
4 deposition of BROOKE BOWES may be taken pursuant to
5 the Federal Rules of Civil Procedure and pursuant to
6 Notice on June 14, 2017, before Jill A. Resetar,
7 Certified Shorthand Reporter within and for the
8 State of Oklahoma.

9 It is stipulated that all objections
0 to questions, except as to the form of the question
1 and the responsiveness of the answer, may be made at
2 the time of trial, when said deposition is offered
3 into evidence.

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1 BROOKE BOWES,
2 of lawful age, being first duly sworn, deposes and
3 says in reply to the questions propounded as
4 follows:

5 * * * * * * *

6 DIRECT EXAMINATION

7 BY MS. MCENTEE:

8 Q. Please state your name for the record and
9 spell your first and last name.

10 A. Brooke, B-r-o-o-k-e, Bowes, B-o-w-e-s.

11 Q. And I'll probably alternate by calling you
12 Brooke and Ms. Bowes; is that okay?

13 A. Yes.

14 Q. Okay. Have you ever been deposed before?

15 A. No.

16 Q. I'm going to go through a number of rules
17 with you, so that we can be clear about how this
18 should go. It's important that you understand my
19 questions, so if at any time I've asked you a
20 question that doesn't make sense or that you need
21 clarity for, will you ask me to clarify?

22 A. Yes.

23 Q. If you don't ask me to clarify, I'm going
24 to assume that you understood the question and that
25 your answer is responsive to that question. Okay?

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1 A. Okay.

2 Q. The court reporter is taking down
3 everything that we say, so it's important, one, that
4 we answer verbally versus a nod or an "uh-huh," so
5 "yes" or "no" or some other sort of response is what
6 we want; do you understand that?

7 A. Yes.

8 Q. Okay. And it's also important that we not
9 talk over one another, which is common in sort of
10 everyday conversation, because it's hard for her to
11 record what each of us is saying at the same time;
12 do you understand that?

13 A. Yes.

14 Q. You can take a break at any time with one
15 exception, and that's if I have a question pending.

16 A. Okay.

17 Q. Do you understand that?

18 A. Yes.

19 Q. Have you taken any medications or are you
20 on any other substances that would affect your
21 ability to give clear testimony today?

22 A. No.

23 Q. Do you have any legal training?

24 A. No.

25 Q. Are you in school?

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1 A. Yes.

2 Q. Where are you in school?

3 A. University of Central Oklahoma.

4 Q. And what are you studying there?

5 A. Nursing.

6 Q. What year?

7 A. I'm a junior. I will be a senior in the
8 fall.

9 Q. And do you expect to graduate after your
10 senior year?

11 A. No.

12 Q. How much further education do you intend to
13 complete?

14 A. I will have two more years.

15 Q. Have you ever hired legal counsel to assist
16 you with any type of matter?

17 A. No.

18 Q. When did you graduate from high school?

19 A. 2014.

20 Q. What is your relationship with Kara Bowes?

21 A. She is my mother.

22 Q. Have you ever heard of the Telephone
23 Consumer Protection Act?

24 A. Not before this case.

25 Q. I'm going to probably refer to the

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1 Telephone Consumer Protection Act as TCPA going
2 forward; is that okay?

3 A. Yes.

4 Q. When you say "not before this case," can
5 you put a date to when you first heard about the
6 TCPA?

7 A. No.

8 Q. Why are you unable to provide a date?

9 A. I had just read about it.

10 Q. Read about the TCPA or the case?

11 A. The TCPA.

12 Q. And you read about the TCPA in conjunction
13 with what? Give me some context.

14 A. This case. I had looked into it.

15 Q. So you looked into this case?

16 A. The Telephone Consumer Protection Act.

17 Q. And you can't give me any timing as to when
18 that occurred?

19 A. No.

20 Q. Do you remember when you indicated that you
21 thought you got texts in this case?

22 A. I'm sorry, what was the question?

23 Q. Well, it's hard for me to understand why
24 you don't know when you looked into TCPA, is it
25 within six months, a year, two years ago?

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1 A. No. It was within six months.

2 Q. Okay. That's fine. I don't expect you to
3 remember the day that you looked into the TCPA.

4 A. Okay.

5 Q. And what did you do to look into the TCPA?

6 A. I Googled it.

7 Q. So based on the research that you did into
8 the TCPA, what is your understanding of what the
9 TCPA does?

10 A. It protects from getting spam messages.
11 You know, the average consumer being spammed by
12 businesses with text messages promoting their
13 business.

14 Q. Before this case, did you ever receive
15 texts to your cell phone that you thought violated
16 the TCPA?

17 A. From other companies?

18 Q. Yes.

19 A. No.

20 Q. So you've never received spam text to your
21 phone?

22 A. No.

23 Q. Other than now?

24 A. Correct.

25 Q. What about telephone calls to your cell

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1 phone that you didn't consent to, did you ever
2 receive anything like that prior to this case?

3 A. No.

4 Q. Did you consider filing your own lawsuit
5 against American Eagle?

6 A. No.

7 Q. Why not?

8 A. I mean, it's not something that I would --
9 I don't know. I didn't think that it was -- I don't
10 know how to put this. Pretty much I heard about it
11 through my mother, so I wouldn't think to do it
12 myself, because I didn't know that it was an actual
13 case. I didn't know -- I didn't know what was going
14 on, until I heard about it from her.

15 Q. So can you just kind of go back and tell me
16 how that went, how you heard about the case and how
17 that conversation went and what happened next?

18 A. So pretty much she had gotten a claim form
19 in the mail. That was the only thing in the mail
20 that day. And she had mentioned something to me
21 about, "Oh, claim forms," you know, and she got one
22 in the mail. And so she was, like, "Hey, let's look
23 at this, I got a claim form, if you ever get one of
24 these, look into it." And she was, like, "It's for
25 American Eagle. I get texts from American Eagle, do

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1 you get texts from American Eagle?"

2 And I was, like, "Actually, I do. So that
3 was something I will look into." When I looked into
4 it, I never got a claim form, but I looked into it,
5 saw on my rewards that I was not opted into text
6 messages, yeah, I continue to get them, so...

7 Q. When you say "looked into it," what do you
8 mean? What did you do to look into it?

9 A. I had Googled it. I had looked -- I think
10 I viewed an article, but I'm not sure.

11 Q. So we talked earlier about you Googling the
12 TCPA, is that what you're referring to now, are you
13 talking about having Googled this specific lawsuit?

14 A. Yes.

15 Q. Yes, the TCPA or, yes, the specific
16 lawsuit?

17 A. The specific lawsuit.

18 Q. Okay. So you remember maybe finding an
19 article about it and then what did you do?

20 A. That was pretty much it. I told my mom,
21 "Hey, I do get these text messages, I'm not opted
22 into them, so I think I would be a good candidate
23 for this case."

24 Q. And what did you do to determine whether or
25 not you opted into the text or didn't opt in?

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1 A. I wasn't -- it said, "Mobile alerts, none."

2 Q. And when you say "it," what are you
3 referring to?

4 A. My American Eagle reward settings.

5 Q. So you have an account with American Eagle?

6 A. Correct.

7 Q. Okay. And so do you regularly shop at
8 American Eagle?

9 A. No.

10 Q. But you have in the past?

11 A. Yes.

12 Q. Such that you created an account?

13 A. Correct, yeah.

14 Q. Do you know when you created that account?

15 A. No.

16 Q. And so just walk me through, to the degree
17 you can remember, because I know the website is not
18 open in front of you. What did you do to go into
19 your account and determine that you weren't opted
20 in?

21 A. I had to log in, which at this point, I
22 didn't even remember my log in information, because
23 I never log into it anymore, like, retrieve my
24 password, re-set it. Once I logged in, I had to go
25 to the settings menu, and look at my account info,

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1 and there it had my address and then "Mobile alerts,
2 none."

3 Q. Okay. And do you remember having chose
4 that option "none" for your mobile alerts?

5 A. I don't remember.

6 Q. Okay. And you assumed that whatever you
7 saw related to mobile alerts was therefore connected
8 with whatever texts you were receiving on your
9 phone?

10 A. Correct.

11 Q. So I don't think you answered my question,
12 but you might have, which was why didn't you
13 consider bringing your own lawsuit, and that may not
14 have been the actual question I asked, but that's my
15 question now.

16 A. I did not realize that -- well, I knew that
17 I got texts from American Eagle, but I didn't know
18 that I had even a choice to opt out, so when I saw
19 that there is a Telephone Consumer Protection Act, I
20 was, like, well, that would make sense, and I logged
21 into mine, and realized that I was not supposed to
22 be getting those.

23 Q. So I think you testified earlier you did
24 not get the postcard that your mom got?

25 A. Correct.

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1 Q. And you also did not get an email, did you,
2 notifying you about the case?

3 A. Not that I'm aware of.

4 Q. And the only way you knew about this case
5 was from hearing about it from your mom?

6 A. Correct.

7 Q. Okay. And just so I want to make sure that
8 we're talking about the same claim form, your mom's
9 claim form.

10 MS. McENTEE: Could we mark this
11 as Exhibit 1?

12 (Exhibit No. 1 marked
13 for identification and made a part of
14 the record.)

15 Q. (By Ms. McEntee) So I've handed you what's
16 been marked as Exhibit 1. And that, I believe, is
17 the declaration that your mom submitted in support
18 of the objection to the settlement in this case;
19 correct?

20 A. Yes.

21 Q. Take a look at Exhibit A to Exhibit 1.

22 A. (Witness complies.)

23 Q. Is that the claim form that your mom --
24 that you understand your mom submitted with the
25 notice on the back?

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1 A. Yes.

2 Q. Okay. Did you take a look at that notice
3 prior to submitting your own claim in this case?

4 A. I submitted mine on-line.

5 Q. What I'm asking is: Did you read the
6 notice that's Exhibit A to Exhibit 1, before you
7 submitted your claim on-line?

8 A. No.

9 Q. So I'm looking at specifically the page 2
10 of Exhibit A, which is on the back, which is the
11 notice provision. Do you see where it says, "Why am
12 I getting this notice?"

13 A. Yes.

14 Q. And do you see, also, where says, "You are
15 identified as someone who may have received one of
16 these text messages based on AEO records"?

17 A. Yes.

18 Q. You never got anything that told you that
19 you were identified as someone who may have received
20 one of these text messages based on AEO records;
21 right?

22 A. No.

23 Q. You talked about having submitted your
24 claim online, and so you did that via the specific
25 settlement website that was designated for this

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1 case; is that right?

2 A. Yes.

3 Q. When you went to the settlement website,
4 did you look at the home page before you submitted
5 your claim to get information about what the
6 settlement was about?

7 A. Yes.

8 Q. Did you see on the home page an advisement
9 of sorts that said that the settlement class was
10 limited to a subset of approximately 618,289 people
11 that American Eagle had identified?

12 A. Could you repeat that?

13 Q. Sure. When you went to the home page, did
14 you see a notice there that said that the settlement
15 class was limited to a subset of approximately
16 618,289 persons that American Eagle had identified?

17 A. I don't remember.

18 Q. Do you remember whether you reviewed any of
19 the documents that were on the website?

20 A. I don't remember.

21 Q. In case this jogs your memory, one of the
22 documents on the website was entitled "Class
23 Notice."

24 A. Uh-huh.

25 Q. And it also talks about the parameters of

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1 who is and who isn't in the settlement class, do you
2 remember whether you read that?

3 A. No.

4 Q. Do you understand that individuals, who are
5 not on this list of 618,000, but who believe that
6 American Eagle sent them unlawful texts, are not
7 prohibited from pursuing their claims under the
8 settlement agreement?

9 A. Would you, like, word that a little bit
10 differently?

11 Q. Sure.

12 Do you understand that if you're not on the
13 list of 618,000 people, but you think that American
14 Eagle's texts were unlawful, that you were not
15 prohibited by the settlement from pursuing American
16 Eagle for those texts?

17 A. Yes.

18 Q. Do you understand that?

19 A. Yes.

20 (Exhibit No. 2 marked
21 for identification and made a part of
22 the record.)

23 Q. (By Ms. McEntee) I'm handing you Exhibit
24 2. And as I understand it, this is the declaration
25 that you submitted in support of the objection in

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1 this case; is that right?

2 A. Yes.

3 Q. And as I understand Exhibit A to Exhibit 2,
4 is the receipt that you got from submitting your
5 online claim; is that correct?

6 A. Yes.

7 Q. Do you see the second line of the
8 certification language at the bottom, that says this
9 claim form may be researched and verified by
10 American Eagle Outfitters and the claims
11 administrator?

12 A. Where?

13 Q. Same page you were there. Do you see where
14 it says "Claim Information, Certification" at the
15 bottom there?

16 A. Yes.

17 Q. In bold?

18 Do you see that part where it says, "This
19 claim form may be researched and verified by
20 American Eagle Outfitters and the claims
21 administrator"?

22 A. Yes.

23 Q. Did you ever contact the claims
24 administrator to determine whether you were on the
25 list of class members?

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1 A. No.

2 Q. As far as you know, did your lawyer ever
3 contact the claims administrator to determine
4 whether you were on the list?

5 A. Not that I know of.

6 Q. Did you ever contact me or Keith Keogh or
7 Beth Terrell, who were the class counsel in this
8 case, to determine whether you were on the list of
9 class members?

10 A. No.

11 Q. As far as you know, did your lawyer ever
12 contact me or Beth Terrell or Keith Keogh to
13 determine whether you were on the list?

14 A. Not that I know of.

15 Q. Since filing your objection, have you
16 learned that neither your name nor your cell phone
17 number are on the list of class members who settled
18 their claims against American Eagle?

19 A. No.

20 Q. So I can represent to you that neither your
21 name or your cell phone number are on that list of
22 618,000 persons, and so given this information, why
23 do you believe you have standing to object to the
24 settlement?

25 A. I get texts, I am not opted into them, I

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1 feel I should be protected by the TCPA.

2 Q. And you can do that by suing American Eagle
3 or pursing your claims in some other way; correct?

4 A. Yes.

5 Q. So do you understand that if you're not a
6 class member, you don't have to opt out, because
7 you're never in?

8 A. Opt out of what?

9 Q. The settlement.

10 A. Okay.

11 Q. If you're not part of the class, you don't
12 have to take any action to opt out, and you don't
13 have any standing to object; do you understand that?

14 A. Okay. Yes.

15 Q. But understanding that, I don't agree that
16 you're in the class. And I'm the one who settled
17 this case. I want to go back and talk about your
18 declaration for a minute, and specifically paragraph
19 2. And just on the second page there, where you
20 say, "I submit this declaration in support of my
21 objection to proposed class action settlement
22 agreement, incentive awards and attorneys' fees."

23 But there's nowhere else in this
24 declaration do I see the reasons why you're
25 objecting to these things. And so I want to talk a

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1 little bit about why you have a problem with the
2 settlement. So tell me, what are the aspects of
3 this settlement that you disagree with?

4 A. I saw that the class members, who received
5 the settlement, did not receive as much as they
6 should have for their damages.

7 Q. Where did you see that?

8 A. When I read it on-line.

9 Q. Where?

10 A. The time that I had Googled it.

11 Q. So you're talking about the settlement
12 website?

13 A. Yes.

14 Q. What, specifically, did you read on the
15 settlement website that told you that the class
16 members did not receive as much as they should have?

17 A. I had read they had settled for 14-some-
18 million. And the class members, after all their
19 fees and everything, only received about \$14 apiece.

20 Q. And you say you read that on the settlement
21 website?

22 A. Yes.

23 Q. If I were to tell you that there was
24 nothing on the settlement website that would say
25 that settlement members were only getting \$14

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1 apiece, would you be able to tell me what other
2 source you went to, at which you saw some
3 representation that the settlement class members
4 were only getting \$14 apiece?

5 A. It was on-line. I believe it was the
6 website. But if you're saying that it's not, then
7 it must have been somewhere else.

8 Q. Did you crunch any numbers or do any math
9 on your own to determine that the class members
10 would not be getting as much money as they should?

11 A. I had also seen in the same article, in the
12 same place, that they should be -- you know, the
13 damages were \$500 per text, up to \$1,500. And so if
14 someone had even at least three text messages, they
15 should at least receive \$1,500. And \$14 is not near
16 that much.

17 Q. Do you have any experience with class
18 actions prior to this one?

19 A. No.

20 Q. And so do you have sort of any baseline
21 understanding of what class members should or
22 shouldn't get, from a legal perspective, in a class
23 action?

24 A. No.

25 Q. I can represent to you that class counsel

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1 provided an estimate in the class notice that,
2 depending on the claims rate, class members would
3 receive between \$142 and \$285 per class member. Do
4 you recall seeing anything like that?

5 A. No.

6 Q. Do you understand what a claims rate is?

7 A. No.

8 Q. Other than what you read, what other basis
9 do you have, if any, to conclude that the class
10 members did not receive as much money as they should
11 have?

12 A. I don't.

13 Q. Do you understand that companies facing
14 multi-million or multi-billion dollar judgements
15 will sometimes choose to file for bankruptcy rather
16 than pay out class members?

17 A. Yes.

18 Q. Do you know what it means to be an
19 unsecured creditor?

20 A. No.

21 Q. Do you know that in the objection, that was
22 filed on your behalf, your attorney suggested that
23 if American Eagle were to declare bankruptcy, if you
24 were a class member, you would simply become one of
25 the new owners of the company?

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1 A. Yes.

2 Q. You understand that a representation was
3 made?

4 A. Yes.

5 Q. And do you have any experience running a
6 multi-million or multi-billion dollar company?

7 A. No.

8 Q. Do you have any educational experience that
9 would give you the tools to do that?

10 A. No.

11 Q. Are you aware of any other class actions in
12 which the class members became the owners of the
13 company that opted to enter into bankruptcy?

14 A. No.

15 Q. So we've talked about one of the problems
16 you have with the settlement being that you don't
17 think the class members got as much as they should
18 have, are there are other concerns that you have
19 about the settlement?

20 A. No.

21 Q. Why didn't you call class counsel, and
22 that's me, Beth Terrell, Keith Keogh, with any
23 questions you had before you filed your objection?

24 A. That was kind of my first step was to talk
25 to my attorney.

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1 Q. Do you know why your attorney didn't call
2 me or Beth Terrell or Keith Keogh with any
3 questions?

4 A. I do not.

5 Q. And if I understand correctly, you have not
6 ever filed an objection to another class action
7 before; is that correct?

8 A. Correct.

9 Q. Okay. You said a minute ago that your
10 first step was to call your attorney, and is that
11 Mr. Isaacson, who's here today?

12 A. Yes.

13 Q. How long have you known Mr. Isaacson?

14 A. I can't give you an exact date, but
15 whenever I started this case.

16 Q. So you had not met Mr. Isaacson before you
17 learned about this case?

18 A. No.

19 Q. And did you contact him about this case, or
20 did he contact you?

21 A. Yes, I called him.

22 Q. How did you learn about him?

23 A. My mother.

24 Q. And that's because your mother had hired
25 him in another case?

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1 A. I don't know.

2 Q. So you don't know what the relationship is
3 between Mr. Isaacson and your mother?

4 A. He is also her attorney.

5 Q. Do you have any social relationship with
6 Mr. Isaacson, other than him being your attorney?

7 A. No.

8 Q. Do you know whether your mother has any
9 social relationship with Mr. Isaacson?

10 A. No.

11 Q. No, you don't know, or, no, they don't?

12 A. No, she does not.

13 Q. An attorney named Benjamin Nutley has also
14 appeared as your attorney in this case, how long
15 have you known him?

16 A. Since the case started.

17 Q. So you never met Mr. Nutley prior to this
18 case?

19 A. No.

20 Q. Is it your understanding that your mom also
21 hired Mr. Nutley previously as her counsel?

22 A. Correct.

23 Q. Are you aware of any other relationship
24 between your mother and Mr. Nutley, other than him
25 having previously represented her?

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1 A. No.

2 Q. Do you know whether Mr. Isaacson has ever
3 agreed to withdraw an objection to a class action
4 settlement in exchange for payment of money?

5 A. I do not know.

6 Q. Do you know whether Mr. Nutley has ever
7 offered to withdraw an objection to a class action
8 settlement in exchange for the payment of money?

9 A. I do not know.

10 Q. Do you know whether Mr. Isaacson has ever
11 agreed to dismiss the appeal of the approval of a
12 class action settlement in exchange for the payment
13 of money?

14 A. I do not know.

15 Q. Do you know whether Mr. Nutley has ever
16 agreed to dismiss the appeal of the approval of a
17 class action settlement in exchange for the payment
18 of money?

19 A. I do not know.

20 Q. So before we started today, Mr. Isaacson
21 produced, on your behalf, an attorney retainer
22 agreement between you and Mr. Isaacson.

23 MS. McENTEE: Could we mark this
24 as an exhibit, please?

25 (Exhibit No. 3 marked

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1 for identification and made a part
2 of the record.)

3 MR. VICTORIA: Adrienne?

4 MS. McENTEE: Yes.

5 MR. VICTORIA: Just so it's on the
6 record, I'm going to request that we get copies of
7 whatever was produced today. I assume you were
8 going to give those to us anyway.

9 MS. McENTEE: Yeah. I only have
10 the one, but I'm sure we can figure out how to get a
11 copy here today.

12 MR. VICTORIA: Obviously, I don't
13 need it right now, but after the deposition, if you
14 guys can get us copies in some way, I'd appreciate
15 it.

16 MS. McENTEE: Of course. And
17 actually, you know, Rich, we might be able to pause
18 and make copies and figure out a way to scan it to
19 you, if that makes sense.

20 MR. VICTORIA: I don't think
21 there's an issue right now. If, as it progresses, I
22 get more curious or think that I need to ask some
23 questions about it, I will. But as it stands, I
24 think you guys can just proceed. I don't want to
25 hold things up.

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1 MS. MCENTEE: Okay. Thank you.

2 MR. VICTORIA: Thanks.

3 Q. (By Ms. McEntee) So I'm going to show this
4 to you and have you just identify that, if you will,
5 as being the agreement that you have with
6 Mr. Isaacson as, "yes" or "no," is that the
7 agreement?

8 MR. ISAACSON: If it would help
9 you, I do have another copy of it.

10 MS. MCENTEE: Great. Thank you.

11 THE WITNESS: Yes.

12 [REDACTED] [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED] [REDACTED]
21 [REDACTED]
22 [REDACTED] [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

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1 [REDACTED]
2 [REDACTED] [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED] [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED] [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED] [REDACTED]
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16 [REDACTED] [REDACTED] [REDACTED]
17 [REDACTED] [REDACTED]
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19 [REDACTED]
20 [REDACTED] [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED] [REDACTED]
24 [REDACTED] [REDACTED]
25 [REDACTED]

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1 [REDACTED] [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED] [REDACTED]

5 Q. Did you also sign an agreement like this --
6 similar to this with Mr. Nutley?

7 A. Not that I know of.

8 Q. Okay. Have you met Mr. Nutley?

9 A. Not in person, no.

10 Q. But you've talked with him on the phone?

11 A. No.

12 Q. So you never talked with him or met him?

13 A. No.

14 Q. And, obviously, I don't want to get into
15 what you guys talked about, but have you ever
16 exchanged correspondence with him?

17 A. Email, yes.

18 [REDACTED] [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED] [REDACTED]

23 Q. I may have asked this before, I don't
24 remember, so I'm going to ask again: Have you ever
25 submitted a claim in a class action before this one?

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1 A. No.

2 Q. Have you ever been a class representative
3 in a class action?

4 A. No.

5 Q. Do you know whether you've ever received a
6 notice in a class action?

7 A. Not that I know of.

8 MS. McENTEE: Okay. What I would
9 like to do is just take a break here and see if I
10 have anymore questions.

11 THE WITNESS: Okay.

12 MS. McENTEE: And then, at that
13 point, Mr. Victoria, if you have questions, you can
14 ask them. But I'm just going to take a quick break.

15 MR. VICTORIA: Okay.

16 (Short break.)

17 MS. McENTEE: I don't have any
18 further questions.

19 And, Rich, just for the record, do
20 you have any questions for Brooke?

21 MR. VICTORIA: No, not at this
22 time.

23 MS. McENTEE: Okay. Mr. Isaacson?

24 MR. ISAACSON: I do have a few
25 questions.

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2 BY MR. ISAACSON:

3 Q. Brooke, you were asked about a list of,
4 quote, approximately 618,281 persons, end quote,
5 what does the "approximately" mean to you?

6 A. About average.

7 Q. Okay. Does that suggest the class might be
8 more than 618,281 persons?

9 A. Yes.

10 Q. Or perhaps less than that many people?

11 A. Yes.

12 Q. Okay. Did you ever see such a list?

13 A. No.

14 Q. It wasn't on-line, when you were looking
15 for information -- or you didn't see it on-line?

16 A. No.

17 Q. Let me clarify, you did not see such a list
18 on-line when you were looking for information?

19 A. No.

20 Q. Did you see drafts of your objection in the
21 case before it was filed?

22 A. Yes.

23 Q. Did I send you drafts of the objection
24 before I filed it?

25 A. I believe so.

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1 Q. Did you read those drafts, at all?

2 A. Yes.

3 Q. Now, you object to the amount of the
4 settlement in this case; is that correct?

5 A. Yes.

6 Q. Are you aware that the named plaintiffs are
7 asking to be paid additional money?

8 A. Could you repeat that?

9 Q. Are you aware that the named plaintiffs,
10 the class representatives, who are entering the
11 settlement for the class, are asking for additional
12 money to that which other class members are getting?

13 A. Not that I know of.

14 Q. Okay. Do you have any objection to the
15 attorneys' fees in the case?

16 A. No.

17 MR. ISAACSON: Okay. I will ask
18 to seal the deposition on account of the fact that
19 the retainer is discussed, at least the portions of
20 the retainer agreement that are discussed, pursuant
21 to the protective order?

22 MS. McENTEE: I agree that the
23 exhibit, itself, may be sealed. But we did not get
24 into the financial particulars of what your hourly
25 rate was as part of the testimony, so I don't think

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1 that that should be sealed. I could have asked
2 those questions without the document, but I agree
3 that the document may be sealed as deemed
4 confidential.

5 MR. ISAACSON: I request that the
6 portions of document discussing the retainer
7 agreement be sealed.

8 MS. MCENTEE: We'll just have to
9 address that with the court later.

10 MR. ISAACSON: I have no further
11 questions.

12 MS. MCENTEE: Mr. Victoria, do you
13 have any questions?

14 MR. VICTORIA: No.

15 MS. MCENTEE: And I don't have any
16 further questions either. I think we're done.

17 (Discussion held off the record.)

18 MR. ISAACSON: Back on the record.

19 Q. (By Mr. Isaacson) I would like to ask,
20 again, I sent you copies of the objection -- drafts
21 of the objection, before it was filed. I've sent
22 you the objection, itself. Do you recognize this
23 document, which has got ECF document from the Pacer
24 file and 271 at the top?

25 A. Yes.

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1 Q. And what is that document?

2 A. This is -- well, this one is our objection.

3 Q. The title is right there, if you need it.

4 A. Oh, our settlement -- well, the settlement.

5 Q. Well, it's not --

6 A. Oh, objection. Sorry.

7 Q. Okay. So this is the objection that I
8 filed on behalf of Kara and Brooke Bowes. Can you
9 review the table of contents, please?

10 A. (Witness complies.)

11 Q. Does that refresh your memory as to whether
12 you objected to the attorneys' fees in this case?

13 MS. MCENTEE: Counsel, I'm going
14 to object. You can refresh her memory, when there
15 is a answer "I don't know" or "I don't remember."
16 She specifically testified that she did not object
17 to attorneys' fees, so I don't think this is a
18 proper recollection --

19 THE WITNESS: Whenever you said
20 that, you said, "Do you reject to the attorneys'
21 fees," I took it as I was rejecting to our attorney
22 fees.

23 MS. MCENTEE: I didn't ask you the
24 question, your counsel did.

25 Q. (By Mr. Isaacson) Does this refresh your

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1 memory as to whether you objected to the attorneys'
2 fees in this case?

3 A. Yes.

4 Q. And what is your position on the attorneys'
5 fees in this case?

6 A. I do not agree with them. I object to
7 them.

8 MS. McENTEE: Why do you object to
9 the attorneys' -- I'm sorry. Are you finished? And
10 then I'll --

11 MR. ISAACSON: Give me a couple
12 more questions.

13 MS. McENTEE: Yeah.

14 Q. (By Mr. Isaacson) Your earlier answer was
15 not relating to the attorneys' fees to be paid to
16 the class counsel; is that what you said?

17 A. I thought that we were talking about our
18 attorney fees, not --

19 Q. When you say "our attorney fees," what does
20 "our attorney fees" mean?

21 A. Not the -- between you and I, not between
22 the class.

23 MR. ISAACSON: Thank you. I have
24 to further questions.

25 FURTHER DIRECT EXAMINATION

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1 BY MS. McENTEE:

2 Q. Would you agree that when I asked you
3 earlier what you didn't like about the settlement,
4 you did not mention attorneys' fees; isn't that
5 true?

6 A. Yes.

7 Q. And when I asked you questions earlier
8 about what you didn't like about the settlement, you
9 didn't say anything about the named plaintiffs
10 getting more money; isn't that right?

11 A. Correct.

12 Q. You didn't remember that you had a problem
13 with those aspects of the settlement, until your
14 attorney reminded you here on the record; isn't that
15 right?

16 A. Yes.

17 MS. McENTEE: I don't have any
18 more questions.

19 Rich, anything?

20 MR. VICTORIA: No, nothing here.

21 MS. McENTEE: I think we are done
22 now.

23 MR. ISAACSON: I think so.

24 MS. McENTEE: I assume that you
25 will want the opportunity to review your deposition

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1 and make any changes, if there are mistakes;
2 correct?

3 THE WITNESS: Yes.

4 MS. McENTEE: We're going to send
5 that to your attorney.

6 (Deposition concluded.)

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1 ERRATA SHEET

2 I, BROOKE BOWES, in Oklahoma City, Oklahoma,
3 Oklahoma County, Case No. 1:14-cv-02440-VEC, desire
4 to make the following corrections:

5 PAGE LINE CORRECTION

7	_____	_____	_____
8	_____	_____	_____
9	_____	_____	_____
10	_____	_____	_____
11	_____	_____	_____
12	_____	_____	_____
13	_____	_____	_____
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24			_____

BROOKE BOWES

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1 C E R T I F I C A T E

2

3

4 STATE OF OKLAHOMA)
5) SS:
6 COUNTY OF OKLAHOMA)

7

8 I, Jill A. Resetar, a certified shorthand
9 reporter within and for the State of Oklahoma,
10 certify that BROOKE BOWES was by me sworn to testify
11 the truth; that the deposition was taken by me in
12 stenotype and thereafter transcribed by computer and
13 is a true and correct transcript of the testimony of
14 the witness; that the deposition was taken on JUNE
15 14, 2017, at 9:07 a.m., at 914 N. Broadway, Suite
16 500, Oklahoma City, Oklahoma; that I am not an
17 attorney for or a relative of either party, or
18 otherwise interested in this action.

19

20 Witness my hand and seal of office on the
21 20th day of June 2017.

22

23

24

25

Jill A. Resetar, CSR
for the State of Oklahoma
CSR # 01734